REMARKS/ARGUMENTS

Claims 23-49 are pending in the application and stand rejected. No amendments are presented. Reconsideration of the claims, as pending is respectfully requested.

35 U.S.C. §103(a)

Claims 23-49 stand rejected under 35 U.S.C. §103(a) as unpatentable over Lind et al. (U.S. Patent Publication No. 2001/0003624; hereafter "Lind") in view of Agouri et al. (U. S. Patent No. 4,126,648; hereafter "Agouri").

Applicants traverse this rejection. Lind discloses multi-layer films. At paragraph [0013], as noted by the Examiner, Lind discloses and teaches a myriad of polymers that can be blended, eight in fact. Two of which are non-polyolefins. More particularly, Lind discloses a three layer film where the core layer is "a barrier layer." See, paragraph [0014]. The barrier layer is described as a "layer that minimizes the transmission of oxygen through the structure." See, paragraph [0026]. Lind discloses barrier materials as follows:

> Preferred barrier materials are polyvinylidene chloride copolymers such as copolymers of vinylidene chloride and vinyl chloride or an alkyl acrylate such as methyl acrylate. Other preferred barrier materials include, ethylene vinyl alcohol, nylon or a metal foil such as aluminum. Layer 14 may also be a copolymer of ethylene and styrene formed using a single site catalyst in the polymerization reaction. In addition, layer 14 may also be a polystyrene formed by a polymerization reaction in the presence of a single site catalyst.

Id.

None of the barrier materials disclosed in Lind includes LDPE or HDPE, as is required in every claim for the claimed core layer. Much less, Lind does not teach, show or suggest a core layer comprising a blend of LDPE and HDPE as is required in every claim. The reason being, most likely, LDPE and HDPE have poor barrier properties, particularly oxygen barrier properties, as stressed by Lind. See, e.g. paragraph [0026]. For example, the following chart shows water vapor and oxygen transmission rates for several of the compositions described by

Lind, as well as for HDPE and LDPE, where water vapor transmission rate (WVTR) is measured in $g/m^2/day$ and oxygen transmission rate (OTR) is measured in $cm^3/m^2/day/atm$.

Film (25μm)	OTR	WVTR
Aluminum	<0.1	<0.1
EVOH	0.2-1.6	24-120
PVdC	0.8-9.2	0.3-3.2
PA6 (Nylon 6)	80	200
HDPE	2100	6-8
LDPE	7100	16-24

Source: Day, *Principles and Applications of Modified Atmosphere Packaging of Food,* (1993) 115-133.

As shown, HDPE and LDPE (and, presumably, blends thereof) clearly do not exhibit oxygen and moisture barrier properties on par with those compositions described as suitable for use in the barrier layer of the films described by Lind. Certainly, such a person having ordinary skill in the art would not replace the barrier layer of Lind, i.e. its core layer, with a blend comprising HDPE and LDPE, as used in the core layer of the pending claims, because Lind teaches away from such a modification by requiring high oxygen and moisture barrier performance.

Furthermore, Agouri discloses monolayer films with a thickness less than 20 microns from styrene grafted LDPE/HDPE blends. See, e.g. Abstract and col. 1, line 62 through col. 2 line 8. The pre-formed combination or alloy of the LDPE/HDPE blends can have 55-85 wt% LDPE and 45-15 wt% HDPE and/or polypropylene, prior to grafting. Col. 2, ll. 16-20 (emphasis added). Agouri is not clear how much is only the blend of HDPE and LDPE. Therefore, no conclusions on the actual weight percentages of a HDPE/LDPE blend can be drawn in view of Agouri. Therefore, there is not enough evidence from the references themselves to arrive at a film structure comprising an A/B/A structure, wherein core layer B comprises 60-90 wt.% LDPE, and 40-10 wt.% HDPE, as required in every claim.

Furthermore, there is no teaching, showing or suggestion to replace the core layer of Lind with the layer disclosed in Agouri. At best, a combination of Lind and Agouri may suggest

replacing the entire three layer structure of Lind with the single layer film of Agouri. In fact, replacing the core layer of Lind with the layer of Agouri, as suggested by the Examiner, would render the three layer structure of Lind unsatisfactory for its intended purpose, a film having good oxygen barrier properties, because of the poor oxygen barrier properties of HDPE and LDPE.

The Examiner is kindly reminded that a proposed modification cannot render the prior art unsatisfactory for its intended purpose. In re Gordon, 221 USPQ 1125 (Fed. Cir. 1984). If the proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. See, In re Gordon, 733 F.2d 900 (Fed. Cir. 1984); MPEP § 2143.01.

Therefore, a combination of Lind and Agouri does not teach, show or suggest every limitation of any claim. Moreover, the Examiner's rejection based on a combination of Lind and Agouri cannot provide a proper basis for rejection under 35 U.S.C. §103 because such combination would render the prior art unsatisfactory for its intended purpose. Withdrawal of the rejection and allowance of the claims is respectfully requested.

CONCLUSION

Having demonstrated that the cited references fail to disclose or suggest the invention as claimed, and all other formal issues having now been fully addressed, this application is believed to be in condition for allowance. Accordingly, Applicants request early and favorable reconsideration in the form of a Notice of Allowance.

If there are any questions regarding this amendment or the application in general, a telephone call to the undersigned would be appreciated, since this should expedite the prosecution of the application for all concerned.

If necessary to affect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to affect a timely response. Please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1712 (Docket #:2003B101A).

Respectfully submitted,

Date: August 29, 2007

/Frank E. Reid/
Frank E. Reid
Attorney for Applicants
Registration No. 37,918

Post Office Address (to which correspondence is to be sent):
ExxonMobil Chemical Company
Law Technology
P.O. Box 2149
Baytown, Texas 77522-2149
Telephone No. (281) 834-1743
Facsimile No. (281) 834-2495